

## Internal Revenue Service

## Department of the Treasury

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Washington, DC 20224

Person to Contact:

Telephone Number:

Refer Reply To:

CC:INTL:PLR-160965-01

Date:

July 16, 2002

### LEGEND

Taxpayer =

Subsidiary =

Individual A =

Individual B =

CPA Firm =

Date A =

Dear :

This replies to a letter dated October 24, 2001 from your authorized representative in which Taxpayer requests an extension of time under Treas. Reg. § 301.9100-3 to file the election provided by I.R.C. § 953(d) in accordance with the procedures for making the election as set forth in Notice 89-79, 1989-2 C.B. 392, with respect to Subsidiary for the fiscal year ended on Date A. The information submitted for consideration is substantially as set forth below.

The ruling contained in this letter is predicated upon facts and representations submitted by the taxpayer and accompanied by a penalty of perjury statement executed by an appropriate party. This office has not verified any of the above material submitted in support of the request for a ruling. Verification of the factual information, representations, and other data may be required as a part of the audit process.

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Individual A is the Vice President and Controller for Taxpayer. Individual A held that position at the time Taxpayer's consolidated federal income tax return was prepared and filed for the tax year ended on Date A. Individual B is a tax partner with CPA Firm and was responsible for Taxpayer's account. Individual B was engaged to review Taxpayer's consolidated federal income tax return. The affidavits of Individuals A and B and the facts submitted describe the circumstances surrounding the failure to file the § 953(d) election. Taxpayer is filing its request for relief before the failure to file the election was discovered by the IRS.

Treas. Reg. § 301.9100 -1(b) provides that an election includes an application for relief in respect of tax, and defines a regulatory election as an election whose due date is prescribed by a regulation, a revenue ruling, revenue procedure, notice, or announcement.

Treas. Reg. § 301.9100-1(c) provides that the Commissioner has discretion to grant a taxpayer a reasonable extension of time, under the rules set forth in § 301.9100-3, to make a regulatory election under all subtitles of the Internal Revenue Code, except subtitles E, G, H, and I.

Treas. Reg. § 301.9100-3(a) provides that requests for relief subject to this section will be granted when the taxpayer provides the evidence (including affidavits described in § 301.9100-3(e)) to establish to the satisfaction of the Commissioner that the taxpayer acted reasonably and in good faith, and the grant of relief will not prejudice the interests of the Government.

In the present situation, Notice 89-79 provides the procedures for making an election under § 953(d). Therefore, the Commissioner has discretionary authority under § 301.9100-1(c) to grant Taxpayer an extension of time, provided that Taxpayer satisfies the standards set forth under § 301.9100-3(a).

Based on the facts and circumstances of this case, we conclude that Taxpayer satisfies § 301.9100-3(a). Accordingly, an extension of time is granted until 30 days from the date of this ruling letter to file the election provided by I.R.C. § 953(d) in accordance with the procedures set forth in Notice 89-79 with respect to Subsidiary for the fiscal year ended on Date A.

The granting of an extension of time is not a determination that Taxpayer is otherwise eligible to file the § 953(d) election. § 301.9100-1(a). A copy of this ruling letter should be associated with the § 953(d) election.

No ruling has been requested, and none is expressed, as to the application of any other section of the Code or regulations to the facts presented.

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This ruling is directed only to the taxpayer who requested it. I.R.C. § 6110(j)(3) provides that it may not be used or cited as precedent.

Pursuant to a power of attorney on file in this office, a copy of this letter is being sent to your authorized representatives.

Sincerely,

/s/ Allen Goldstein

Allen Goldstein

Reviewer

Office of the Associate Chief Counsel (International)